

STATE OF HAWAII
NOTICE OF AND REQUEST FOR EXEMPTION
FROM CHAPTER 103F, HRS

'11 APR 18 P1:40

STATE PROCUREMENT OFFICE
STATE OF HAWAII

To: Chief Procurement Officer

From: Department of Health/Developmental Disabilities Division
Department/Division/Branch or Office

Pursuant to § 103F-101(a)(4), HRS, and Chapter 3-141, HAR, the Department requests a procurement exemption to purchase the following:


1. Title and description of health and human service(s): Developmental Disabilities Domiciliary Home (DD Dom Home) general subsidy. In 2005, Act 168 amended Chapter 321-15.9 Hawaii Revised Statutes (H.R.S.) to allow the Department of Health (DOH) "to enter into contracts for additional payments to providers of developmental disabilities domiciliary homes." The Legislature has appropriated a total of \$1.8 million annually to the Developmental Disabilities Division (DDD) for developmental disabilities/mental retardation (DD/MR) residential subsidies (e.g. apartment complex and Developmental Disabilities Domiciliary Homes). There continues to be 70 individuals with DD/MR living in DD Dom Homes operated by five agencies. These individuals are unable to live independently and require 24-hour supervision. The DD Dom Homes are licensed by the Office of Health Care Assurance under Chapter 89, Hawaii Administrative Rules (H.A.R.) which requires that continuous 24-hour supervision be provided for individuals with DD/MR.	
2. Provider Name and Address:	The Arc in Hawaii 3989 Diamond Head Road, Honolulu, HI 96816 Arc of Maui County 95 Mahalani Street, Wailuku, HI 96793 Kona Association for Retarded Citizens dba Kona Krafts P.O. Box 127, Kealahou, HI 96750 Opportunities for the Retarded, Inc. 64-1510 Kamehameha Highway, Wahiawa, HI 96786 Responsive Caregivers of Hawaii 98-1247 Kaahumanu Street, Suite 219B, Aiea, HI 96701
3. Total Contract Funds: Contract Funds per Year (if applicable):	\$1,550,000.00 (estimate)
4. Reference number of Previous Request for this Service (if applicable):	PEH 11-10
5. Term of Contract:	Start: 7/1/11 End: 6/30/12

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<p>6. Describe how procurement by competitive means is either not practicable or not advantageous to the State:</p> <p>There is a "Free choice of providers" provision under Title 42, Chapter IV, Section 431.51., Code of Federal Regulations (C.F.R.), that provides for "recipients to obtain services from any qualified Medicaid provider that undertakes to provide services to them". The services in agency operated DD Dom Homes are funded by Medicaid Waiver services and individuals must be provided a choice to live in any of the homes that meet state licensure requirements. As a result, the DOH must contract with all licensed DD Dom Home agencies (5) to insure that the freedom of choice provision is met so it is not feasible to procure this service. The Office of Health Care Assurance under the DOH insures that all licensed homes meet the requirements of Chapter 89, H.A.R.</p> <p>In addition to conflicting with the "Free choice of providers" provision in the C.F.R. for Medicaid services, the procurement process poses a conflict for guardians of persons with developmental disabilities. Guardians of the person are court appointed and decide where a person will live rather than the DOH. Such decisions are affected by the location of the home, confidence in caregiver ability, other clients in the home, first impressions etc. A procurement process that restricts choice among the 5 DD Dom Homes would compromise the duties of the legal guardian. The 5 DD Dom Home agencies are regarded as meeting minimum standards as evidenced by licensure from the Office of Health Care Assurance.</p>	
<p>7. Describe the reason for the selection of the provider including a description of how the procedure ensured the maximum fair and open competition practicable:</p> <p>All currently licensed DD Dom Home agencies will be eligible for an additional payment and the DOH will notify all agencies of the availability of the subsidy. The DOH case manager will monitor the needs of the individuals and the provision of Medicaid Waiver services provided in the homes and the Office of Health Care Assurance of the DOH will assure certification and licensure requirements of the homes are maintained.</p>	
<p>8. Describe the state agency's internal controls and approval requirements for the exempted procurement:</p> <p>Case Management and Information Services Branch (CMISB) Branch Chief – Oversee health and safety of individuals residing in DD Dom Homes. Office of Health Care Assurance – Oversee compliance with licensure requirements by DD Dom Home agencies. Contracts Supervisor – Conduct cost analysis and determine rate structure.</p>	
<p>9. List the state agency personnel, by position title, who will be involved in the approval process and administration of the contract:</p> <p>Kimberly Arakaki, Chief, CMISB Christie Ferreira, Public Health Administrative Officer, DDD Jean Luka, Supervisor, CRDS</p>	
<p>10. Direct questions to (name & position):</p> <p>Phone number:</p> <p>e-mail address:</p>	<p>Kimberly Arakaki, Chief, CMISB</p> <p>733-9172</p> <p>kimberly.arakaki@doh.hawaii.gov</p>

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I certify that the information provided above is to the best of my knowledge true and correct.



Department Head Signature
Loretta J. Fuddy
Director of Health

Typed Name

4/16/11

Date

NOTICE

The chief procurement officer is considering this request for exemption and, if there is good cause, the state intends to exempt the purchase as described in the request. Any inquiries regarding the purchase shall be directed to the contact person noted in item 10 of the request. Any concerns regarding the exemption shall be in writing and received by the chief procurement officer within seven days of the date the notice was first posted. Concerns shall be mailed to: Aaron Fujioka, Chief Procurement Officer, State Procurement Office, 1151 Punchbowl St., #230A, Honolulu, HI 96813.

FOR CHIEF PROCUREMENT OFFICER USE ONLY

Chief Procurement Officer's Comments:

This award is required to be posted on the Awards Reporting System.

As a reminder, individual(s) participating in procurement activities are required to be in compliance with Procurement Delegation No. 2010-01 and Amendment 1, and Procurement Circular No. 2010-05, *Statewide Procurement Training*, as appropriate. Procurement requests submitted to the SPO listing departmental personnel without written delegated procurement authority and the appropriate mandatory procurement training will be returned with no action taken.

☒ APPROVED ☐ DISAPPROVED ☐ NO ACTION



Chief Procurement Officer Signature

5/25/2011

Date

Please ensure adherence to applicable administrative requirements.